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Supreme Court, U.S.
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No. 85-1053

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

CHRISTINE A. CRAFT,

Petitioner,

—vs.—

METROMEDIA, INC.,

Respondent.

PETITIONER'S REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

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Ariyoshi v. Robinson, No. 85-406 . . . 2
(petition for certiorari pending)

Liphete v. Merritt Stierheim, No. 84-1287 (cert. denied). 2

Polo Fashions, Inc., v. Stock Buyers, No. 85-455 (petition for certiorari pending) 2

Shoultz v. Monfort of Colorado, Inc. No. 84-1747 (petition for certiorari pending) 3

Petitioner's Reply Brief

Petitioner urges that the Court request the views of the United States with regard to this case. The petition describes in detail the general practice of the courts of appeals of reversing 45% of all civil jury verdicts challenged on evidentiary grounds. (Petition, pp. 11-16). Respondent acknowledges that such a pattern of reversals, if unexplained, would indicate that the circuit courts are "routinely applying improper standards of appellate review." (Br. Opp.p8). The analysis set forth in the petition rests on all the appellate decisions reported in the last year; although respondent asserts that the evaluation of these cases involves some subjective judgments, respondent does not in fact dispute the evaluation of any of the 233 cases summarized in the petition. (Br. Opp. p.8; Pet. App. 107a-128a).

The role of the appellate courts in reversing civil jury verdicts affects the interests of the United States in a variety of types of cases. Actions filed by the EEOC under the Age Discrimination Act are tried before civil juries, as are constitutional claims against individual federal officials; appellate reversal rates are in practice highest for discrimination and constitutional cases. The extent to which the appellate courts may be exceeding their authority under the Seventh Amendment is a matter of broad importance similar in scope to the constitutional issues regarding which the Court has requested the Solicitor's views in the past. See, e.g. Ariyoshi v. Robinson, No. 85-406 (Fourteenth Amendment); (Polo Fashions, Inc., v. Stock Buyers, No. 85-455 (Sixth Amendment right to counsel); Liphete v. Merritt Stierheim, No. 84-1287 (Equal Protection);

CONCLUSION

For the above reasons a writ of certiorari should issue to review the judgment and opinion of the Eighth Circuit. In the alternative, the Solicitor General should be invited to file a brief in this case expressing the views of the United States.

Respectfully submitted,

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